



July 16, 2024

## Active Listing or Buyer Agreements – Do they need updating or amending?

Please see the list of Frequently Asked Questions (FAQ) at <https://facts.realtor>.

### From the FAQ:

52. Should active listing or buyer agreements—meaning there is no accepted offer—entered into before the MLS policy changes go into effect on August 17, 2024, be amended to include a conspicuous disclosure that compensation is not set by law and is fully negotiable?

- MLS Participants must make this disclosure. Active agreements can either be amended or a separate disclosure can be provided to satisfy the requirement. *(Added 5/29/2024)*

53. Should active listing agreements entered into before the MLS policy changes go into effect on August 17, 2024, be amended to address the settlement agreement's prohibition on offers of compensation being communicated on an MLS?

- If the listing agreement instructs the listing broker to make an offer of compensation without reference to an MLS, no change to the listing agreement is needed, as the listing broker can comply with that instruction without violating the MLS policy change.
- But if the listing agreement specifies that offers of compensation be made on an MLS then the listing broker should work with the seller to amend the listing agreement before the MLS policy change is implemented, to make it clear the listing broker will not make an offer of compensation on an MLS and to determine whether the seller instructs the listing broker to make an offer of compensation outside of an MLS. *(Added 5/29/2024)*

72. Should active buyer agreements entered into before the MLS policy change be amended to remove any provision that authorizes the buyer broker to keep any offers of compensation exceeding the amount of compensation agreed with the buyer?

- Yes. MLS Participants working with a buyer after the effective date of the policy should take steps to ensure that the buyer has agreed to the necessary terms required by the settlement agreement.

Please reach out to Rob Hulse with any questions at (785) 842-1843, or by email at [Rob@LawrenceRealtor.com](mailto:Rob@LawrenceRealtor.com).